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Congress of the United States
House of Representatives

COMMITTEE ON APPROPRIATIONS

Subcommittees:
HOMELAND SECURITY
(Ranking Member)
DEFENSE

Chemical Security – Time to Close the Gap

May 15, 2006

Dear Appropriations Committee Colleague:

U.S. chemical facilities pose prime targets for a catastrophic terrorist attack. Unfortunately, nearly five years after 9/11, the federal government has done precious little to secure them.

What are we waiting for? It is time to act, and I ask your support for a chemical security amendment I will offer in the full committee markup of the Homeland Security Appropriations bill.

Congress addressed a small part of the problem in 2002. It enacted security requirements for chemical facilities on ports under the Maritime Transportation Security Act, and the Coast Guard is doing a good job of enforcing regulations on the limited number of these port facilities. Under the Bioterrorism Act of 2002, the EPA also oversees security at the nation's drinking water facilities.

Unfortunately, there are thousands of other chemical plants and storage facilities that the federal government does not regulate. An attack on one of them could have the potential to kill or injure tens of thousands of people. Yet, security at these facilities is left to the good consciences of their operators.

Last summer, Secretary Chertoff told me that DHS does not have the legal authority to require chemical facilities to improve their security. Unfortunately, the Administration has never submitted a chemical security legislative proposal to Congress.

Furthermore, Congress has been stuck in neutral for more than four years -- even though legislation to grant DHS or EPA the authority to require chemical security measures has been introduced in each Congress since 2001.

I believe we must not wait any longer. Therefore, I will offer an amendment in committee to close this chemical security gap.

My amendment is simple. It gives the Secretary broad authority to issue interim final regulations to establish requirements for chemical facilities that he determines to present the greatest security risk. These requirements will include minimum standards and the mandatory submission of facility security plans to the Secretary. It excludes those chemical facilities that are currently regulated for homeland security purposes, such as those on ports and for drinking water. As an enforcement mechanism, the amendment uses the civil penalty currently in place for chemical facilities on ports. DHS has been helpful in crafting this amendment.

To underscore the chemical security dilemma we face, following is an excerpt of Secretary Chertoff's speech to the American Chemistry Council on March 21, 2006:

"The fact of the matter is that although large numbers of the chemical companies that operate in this country have been very responsible in taking steps to make sure that they are elevating their own security, we have to recognize that not all chemical companies have done that. And all the industry, in fact the whole country, is hostage to those few who do not undertake the responsibility that they have to make sure security is at an appropriate level.... Since 2003, Congress has been considering but has not enacted legislation that would give the authority to my Department to create a sensible regulatory structure for the nation's chemical infrastructure. This law has not passed.... I want to challenge Congress to take the steps this year to enact a sensible bill that will allow us to complete the process across the entire spectrum of this sector of getting the chemical plant sector where it needs to be in terms of national security."

I ask you to support my chemical security amendment. Yes, it is authorizing in nature. It must be to be effective. The nation has waited too long for us to address our critical chemical security vulnerabilities. We should act now.

Sincerely,

Martin Olav Sabo
Ranking Member, Subcommittee on Homeland Security